



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

August 17, 2000

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D. C. 20460

Alex Chen  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

David Hart  
Noranda Aluminum, Inc.  
P.O. Box 70  
St. Jude Industrial park  
New Madrid, Missouri 63869

Re: IN THE MATTER OF Noranda Aluminum, Inc.  
Docket No. RCRA-7-99-0019

Dear Judge Biro and Messrs. Chen and Hart:

The enclosed Consent Agreement and Final Order replaces the Consent Agreement and Final Order that was mailed on August 15, 2000. The copy sent may have been missing page two of the Consent Agreement. Please check the copy received by your office and replace with the enclosed document.

If you have any questions, I can be reached at (913) 551-7567.

Sincerely,

Kathy Robinson  
Regional Hearing Clerk



R00173923

RCRA RECORDS CENTER

Enclosure



**REGION VII**  
**901 N. 5TH STREET**  
**KANSAS CITY, KANSAS 66101**

ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

## CONSENT AGREEMENT AND FINAL ORDER

**CONSENT AGREEMENT AND  
FINAL ORDER - Page 1**

2. The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order is the result of such negotiations and resolves and fully releases Respondent from all administrative claims made by EPA in connection with the issues arising from the allegations in the Complaint.

3. Authority to execute this Consent Agreement and Final Order ("Final Order" or "Order") has been delegated to the Director, Air, RCRA and Toxics Division with concurrence of the Regional Counsel, by EPA Delegation No. R7-8-25, dated January 1, 1995; and to the Regional Judicial Officer, by EPA Delegation R7-1-38, dated November 30, 1992.

#### **CONSENT AGREEMENT**

4. Respondent admits the jurisdictional allegations of the Complaint.

5. Respondent agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of this Final Order.

6. Respondent neither admits nor denies the specific factual allegations contained in the Complaint.

7. Respondent waives its right to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.

8. Respondent consents to the assessment of the stated civil penalty in the Final Order and to the conditions specified in this Consent Agreement.
9. Respondent agrees that no portion of the civil penalty or interest paid by the Respondent pursuant to the requirements of this Consent Agreement and Final Order shall be claimed by the Respondent as a deduction for federal, state, or local income tax purposes.
10. Respondent and EPA each agree to bear its own costs and attorney's fees.
11. Nothing contained in the Consent Agreement and Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.
12. The settlement pursuant to this Consent Agreement shall only resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.
13. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

#### **FINAL ORDER**

14. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of the Consent Agreement set forth above, IT IS HEREBY ORDERED THAT:
  - a. Respondent is assessed a civil penalty, and shall pay such civil penalty, in the amount of \$120,000. Said penalty shall be paid in full within 30 days following receipt by

Respondent of a fully executed copy of this Final Order. Payment made by Respondent shall identify the Respondent by name and docket number and shall be made by certified or cashier's check payable to the United States Treasury and remitted to:

Mellon Bank  
U.S. EPA - Region 7  
Regional Hearing Clerk  
P.O. Box 360748M  
Pittsburgh, PA 15251

A copy of the transmittal letter and check shall be mailed to Brian Mitchell, U.S. EPA Region 7, 901 N. 5th Street, Kansas City, Kansas 66101.

b. In the event that any payment due is not paid as provided above, interest shall accrue at the rate determined by the Secretary of the Treasury (currently 5% per annum for the period January 1, 2000 through December 31, 2000) on the unpaid balance until such payment and accrued interest are both paid in full. A late payment handling charge of \$15 will be imposed for payments received 30 days after the due date, and an additional \$15 will be charged for each subsequent 30 day period. As provided by 31 U.S.C. § 3717(e)(2), a 6% per annum penalty (late charge) will be assessed on any amount not paid within 90 days of the due date.

#### **PARTIES BOUND**

15. This Final Order shall apply to and be binding upon Respondent, its agents, successors and assigns. Respondent shall ensure that its directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

### **RESERVATION OF RIGHTS**

16. EPA reserves the right to enforce the terms of this Final Order by initiating a judicial or administrative action pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent as provided by law for each day of non-compliance with the terms of this Final Order, and to seek any other remedy allowed by law.

17. With respect to matters not addressed in the Complaint or this Final Order, EPA reserves the right to take any enforcement action pursuant to RCRA, or any other available legal authority, including without limitation, the right to seek injunctive relief, monetary penalties and for punitive damages.

### **EFFECTIVE DATE AND TERMINATION**

18. This Final Order shall be effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated therefrom unless otherwise provided in this Final Order.

19. The execution of this Final Order and payment of the civil penalty, plus any applicable interest, late payment handling charges, or penalties for non-compliance with this Final Order, shall result in complete settlement, full satisfaction, and release of all administrative claims and matters raised in the Complaint and the Final Order.



IN THE MATTER OF Noranda Aluminum, Inc., Respondent  
Docket No. RCRA-7-99-0019

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Alex Chen  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail,  
Return Receipt Requested, to:


David Hart  
Noranda Aluminum, Inc.  
P.O. Box 70  
St. Jude Industrial park  
New Madrid, Missouri 63869

and

Copy by Fax and  
First Class Pouch Mail to:

Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D. C. 20460

Dated: 8/15/00

  
Kathy Robinson  
Regional Hearing Clerk

For Noranda Aluminum, Inc.:

8/11/2000  
Date

David Hart  
Name: David Hart  
Title: Tech. Services Mgr.

For U.S. EPA, Region 7:

8-14-00  
Date

Alexander Chen  
Alexander Chen  
Assistant Regional Counsel

8/15/00  
Date

William A. Spratlin  
William A. Spratlin  
Director, Air, RCRA and  
Toxics Division

IT IS SO ORDERED.

August 15, 2000  
Date

Robert L. Patrick  
Robert L. Patrick  
Regional Judicial Officer